IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

Bail Appl..No. 4028 of 2007()

CRIME NO.33/2007 OF VILAPPILSALA POLICE STATION

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PETITIONER/ACCUSED 4

SREEKANTAN, VENKUZHI PUTHEN VEEDU,
MYLAMOODU, PULIYARAKONAM.

BY ADV. SRI.S.GOPAKUMARAN NAIR
SRI.S.GOWTHAM

RESPONDENTS:

SUB INSPECTOR OF POLICE,
VILAPPILSALA POLICE STATION,
THIRUVANANTHAPURAM,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4028 of 2007

Dated this the 4th day of July 2007

O R D E R

Application for anticipatory bail. The petitioner is the fourth accused in a crime registered inter alia under Sections 324 and 308 I.P.C. He is not named in the F.I.R as one of the assailants. Accused 1 and 2 had approached this court with a prayer for anticipatory bail and as per the detailed order dated 27/6/2007, this court had rejected the prayer of the said accused for anticipatory bail.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The petitioner is a neighbour of accused 1 and 2. There were certain earlier incidents between the defacto complainant in this case and accused 1 and 2. The petitioner, being a neighbour of accused 1 and 2, had helped accused 1 and 2 and their mother in that earlier incident. Purely on account of animosity arising from the earlier incident, false allegations have been raised against the petitioner in this crime, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the sequence of events in this case clearly reveal that it was a planned attack by the four accused persons against the defacto complainant/victim. There are no circumstances justifying or warranting the invocation of the equitable discretion under Section 438 Cr.P.C, submits the learned Public Prosecutor.

4. I have adverted to facts in detail in the order dated 27/6/2007 referred above. In the case of the petitioner here also, I do not find any circumstance which can justify the invocation of the equitable discretion under Section 438 Cr.P.C. This, I am satisfied, is a fit case where the petitioner must appear before the learned Magistrate or the investigating officer and seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007